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October 31, 2011

VIA FACSIMILE
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Honorable Alvin K. Hellerstein
United States District Judge
United States District Court for
the Southern District of New York
500 Pearl Street
New York, New York 10007

*See last page
Judge Hellerstein's
endorsed order.*

RE: In Re: World Trade Center Disaster Site Litigation, 21 MC 102(AKH)

Dear Judge Hellerstein:

The attached proposed Order is being jointly submitted by the parties.

Your Honor issued an Order on September 28, 2011 "Enlarging Time to Submit Sworn Answers." As part of that Order, TCDI was directed to take steps necessary to purge unsworn information from the database if the defects were not cured by October 31, 2011.

The parties have conferred with TCDI and in lieu of purging the data, would prefer the data for those cases remain on the database, but be separated from the compliant data. TCDI is able to isolate the non-compliant plaintiffs and the non-compliant plaintiffs would not be part of the case selection process. However, retaining access to the data concerning all plaintiffs in a central location is valuable for all sides for multiple purposes, including the tracking and reporting of claims.

The proposed Order has been provided to the Special Masters Twerski and Henderson who have reviewed it and are in agreement with the contents therein.

BOSTON FARMINGTON FORT LAUDERDALE FLORHAM PARK NEW YORK
PHILADELPHIA PROVIDENCE SPARTA SYRACUSE WILMINGTON

Honorable Alvin K. Hellerstein
October 31, 2011
Page 2 of 2

Wherein it is respectfully requested that Your Honor execute the attached proposed Order. We are available at the Court's convenience should you have any questions. Thank you for your time and consideration in this matter.

Respectfully submitted,

On Behalf of the Defense Liaison Committee
McGIVNEY & KLUGER, P.C.



By: Richard E. Leff

On Behalf of the Plaintiff Liaison Committee
GREGORY J. CANNATA & ASSOCIATES



By: Robert Grochow

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE WORLD TRADE CENTER LOWER
MANHATTAN DISASTER SITE
LITIGATION

Order Amending:

"Order Enlarging time
to Submit Sworn Answers"
filed 9/28/11, 21MC102(AKH)

-----X
ALVIN K. HELLERSTEIN, U.S.D.J.:

This Order amends the September 28, 2011 Order Enlarging Time to Submit Sworn Answers. As part of that Order, the Court directed that TCDI take steps necessary to purge unsworn information from the data bank if the defects are not cured by October 31, 2011....."

After consideration by the parties, in consultation with the Special Masters and TCDI, TCDI has the ability to separate, in lieu of purging, the data for those cases where the data was not provided in accordance with the Court's deadline. The cases where plaintiffs have not timely provided a declaration under oath, will not be part of the active database nor will the data referable to that case be available as part of the case selection process, as previously outlined by the Court in its October 5, 2011 Order, "Amending Order Setting Revised Dates For Selecting cases For Discovery."

Along with providing responses to the TCDI datafields, plaintiffs will submit their declaration under oath page to TCDI. TCDI will provide an additional column for each respective plaintiff response indicating whether such declaration under oath was provided. TCDI can then easily identify and isolate those cases for which the declaration under oath was not provided or not timely provided.

Therefore, it is Ordered:

- 1) That the plaintiffs' attorneys providing TCDI with their respective clients databases and declarations under oath, will affirmatively indicate whether or not said declaration under oath is being provided, and it is further Ordered
- 2) That TCDI, after October 31, 2011, shall immediately isolate those plaintiffs' databases for whom no declaration under oath was provided based upon the information provided. TCDI will maintain that data in a separate file. TCDI shall

not make that data available for, nor release same, as part of any search or review of this database project without further directive from the Court.

SO ORDERED

Dated: October ____, 2011
New York, NY

ALVIN K. HELLERSTEIN
United States District Judge

Endorsed Order to Letter of McGivney & Kluger of October 31, 2011
and attached proposed stipulation.

The stipulation is rejected. I accept the idea of separating compliant, with non-compliant, interrogatory answers. However, the proposed order should not provide for free-floating oaths, separated from interrogatories and answers. An interrogatory answer is compliant only if interrogatories, answers, and oaths and declarations attesting to the responsiveness, accuracy and truthfulness of the answer, responding separately and fully to each of the interrogatory question, are submitted as a single document.”

11/1/11
~~10-31-11~~
